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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/806,859	03/23/2004	Steven R. Placek	1411	2476

7590 06/08/2005

Law Offices of John D. Gugliotta, PE, Esq.  
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137 South Main Street  
Akron, OH 44308

EXAMINER

SWINEHART, EDWIN L

ART UNIT	PAPER NUMBER
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3617

DATE MAILED: 06/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/806,859

Applicant(s)

PLACEK, STEVEN R.

Examiner

Ed Swinehart

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 18 April 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 2,3 and 5-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Loffler.

Loffler discloses the claimed invention, including a hull of V-bottom shape (at least in the bow as shown), a “C-shaped” frame (Figs. 13-15) attached on the inside of the hull for supporting a platform via pins 35. Pins are positioned about the hull as claimed.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1,2,4,8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tenneson in view of Johnson.

Tenneson discloses the field of the invention, including a small V-shaped hull watercraft including bench seats. Tenneson fails to disclose a platform as claimed.

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Johnson discloses the claimed platform, including a framework (element **18** and **19** are C-shaped, and element **16,17,18** is C-shaped) which is adjustable, and supports a vertically adjustable seat **40**.

Re "adjustable boat casting platform" and "fittingly attached...", such are statements of intended use, carrying no real weight in the claim. Furthermore, Johnson is inherently capable of performing such intended use functions.

Re claim 9, such fails to define any specific structure and/or arrangement so as to define over the frame element **12**.

It would have been obvious to one of ordinary skill in the art at the time of the invention to provide a platform to the watercraft of Tenneson as taught by Johnson .

Such a combination would have been desirable so as to provide a more comfortable seat to the user.

It would further have been obvious to the ordinary routineer working in the art at the time of the invention to position the platform where desired, and positioning between the existing bench seats would have been obvious, providing no unexpected results.

Re "captive pin", such fails to define any specific structure and/or arrangement so as to define over the assembly bolts.

5. Claims 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tenneson in view of Johnson as applied to claims 8 and 9 above, and further in view of Anthonijsz.

Tenneson fails to disclose side by side (end to end) platforms.

Anthonijsz teaches the addition of an intermediate support such that a plurality of seat platforms may be situated side by side.

It would have been obvious to one of ordinary skill in the art at the time of the invention to provide an intermediate support/frame to Tenneson such that multiple platforms could be mounted next to each other.

Such a combination would have been desirable at the time the invention was made so as to provide additional seating.

Re "end to end", such fails to define any specific structure and/or arrangement so as to define over "side to side".

6. Applicant's arguments filed 4/18/2005 have been fully considered but they are not persuasive.

Applicant argues that Johnson fails to disclose a platform mounted between bench seats, as his platform is mounted between sidewalls of the boat.

In response, "coupled between bench seats" is not a positive recitation of coupling to the bench seats, but merely a recitation as to location of the platform.

Applicant argues that Loffler fails to disclose attachment to the inside of the boat.

The examiner previously addressed this limitation within the body of the rejection.

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ed Swinehart whose telephone number is 571-272-6688. The examiner can normally be reached on Monday through Thursday 6:30 am to 2:00 pm..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Samuel Morano can be reached on 571-272-6684. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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A handwritten signature in black ink, consisting of several overlapping loops and a horizontal stroke, likely representing the name Ed Swinehart.

Ed Swinehart  
Primary Examiner  
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